

exchange access charges to IXCs originating or terminating toll calls on those elements.") NYNEX has since submitted a proposal to LCI as to how such carrier access revenues collected by NYNEX will be paid to LCI. See letter from Joseph Esposito of NYNEX to Brad Mutschelknaus dated March 28, 1997 (and subsequent "clarification" of NYNEX' proposal), attached hereto as Exhibit B. NYNEX has submitted this proposal because it does not currently have the capability to provide LCI with the terminating access records that would enable LCI to bill IXC's for actual terminating access charges. Thus, there is not only a significant omission in NYNEX' SGAT concerning this issue, but there is also a deficiency in NYNEX' billing systems that needs to be rectified before NYNEX can be deemed in compliance with section 271 and the FCC's Order.

NYNEX' offer of unbundled local switching in its SGAT is also deficient in that it appears to limit a CLEC's access only to the functions of the switch used by NYNEX and its end-users. See SGAT § 5.6.1.1 and Affidavit of Patrick A. Garzillo on behalf of New York Telephone Company ("Garzillo Aff.") ¶ 32 ("Unbundled local switching includes access to all vertical features, and capabilities of the switch available to the port type involved that NYNEX provides to its end-user customers. . . .") (emphasis supplied). The regulations promulgated by the FCC do not permit this limitation, but instead require NYNEX to make available with its unbundled local switch "all features, functions and capabilities of the switch, which include, but are not limited to . . . all other features that the switch is capable of providing. . . ." 47 C.F.R. § 51.319(c)(1)(i)(C)(2).

Finally, while NYNEX' offering of unbundled local switching includes a provision for access to AIN triggers (SGAT § 5.6.1.1(C)), it is clear from testimony at the Technical Conference that NYNEX has not yet established any firm procedures pursuant to which it will provision AIN capabilities and indeed does not even know when these capabilities will be available:

A. (Gansert) It is very difficult to answer the question, are you offering AIN. Our stand is we are offering -- we are ready to work with anyone to create AIN interaction and AIN service capabilities. It's a process we're really not sure how long it will take because it is a very complicated process. It takes us months and even years to develop the few things we've done on AIN ourselves.

By Judge Lee:

Q. Can you given an approximate time period -- months, years? I mean, just --

A. (Gansert) I think our belief is that months is a reasonable period.

Q. Can you pin it down any closer? Six months, three months,

A. (Gansert) It is probably more like six months than one month.

RT at 547:1-17. Thus, even though NYNEX itself has available to it certain AIN capabilities, those capabilities, accessed through AIN triggers in NYNEX' switches, will not be available to CLECs for at least six months, if even then. This is not parity!

### **3. Interoffice Transmission Facilities:**

NYNEX is not currently providing any interoffice transmission facilities as an unbundled element. RT at 522.

### **4. Operations Support Systems Functions:**

NYNEX is not currently providing OSS functions to any CLEC as an unbundled element. RT at 552-53.

NYNEX is providing CLECs access to its OSS for purposes of resale and to a lesser degree, for ordering and provisioning unbundled network elements such as loops. However, the evidence produced at the Technical Conference demonstrated overwhelmingly that (1) the CLEC's access is not on parity with the access that NYNEX itself has, and (2) the electronic interfaces currently being offered by NYNEX are inadequate in numerous and significant respects. Consequently, CLECs have been and will continue to be severely disadvantaged in their ability to compete against NYNEX.

The FCC has recognized that local markets will not be open to competition unless and until CLECs have parity of access to the OSS of the incumbent local exchange carrier ("ILEC"). In its First Report and Order, the FCC found it "absolutely necessary for competitive carriers to have access to operation support system functions in order to successfully enter the local service market." Order ¶ 521 (emphasis supplied). The FCC found that "operation support systems functions are essential to the ability of competitors to provide services in a fully competitive local service market" and "operational interfaces [to the OSS] are essential to promote viable competitive entry." Order ¶¶ 516, 522. And, if CLECs do not have access to ILEC OSS functions "in substantially the same time and manner than an incumbent can for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing." Order ¶ 518. See *also* Affidavit of Adalene (Nene) Spivy on Behalf of MCI Telecommunication Corp. and MCImetro Access Transmission Service, Inc. ("Spivy Aff.") at ¶ 6. ("In today's environment, a carrier simply cannot compete without powerful and efficient operations support capabilities.")

The importance that the FCC attached to the issue of access to OSS led it to conclude that: (1) ILECs are required to provide access to OSS functions pursuant to their obligation to offer access to unbundled network elements under § 251(c); (2) as well as their obligation to furnish access on a nondiscriminatory basis to all services made available for resale under § 251(c)(3-4); and (3) ILECs "must do so as expeditiously as possible but in any event no later than January 1, 1997." Order ¶¶ 316, 516-17, 525. Meeting the FCC's OSS requirement was not seen as a far away, unattainable objective -- instead, it was characterized as one of the "minimum requirements upon which the states may build" and the Commission determined that it was "technically feasible" for ILECs to provide such access by the established deadline. Order ¶¶ 24, 66, 516, 524.

As this Commission knows, OSSs are the computer-based systems and databases that telecommunications carriers use to provide essential customer and business support functions. Generally speaking, OSSs encompass the functions of "pre-ordering, ordering, provisioning, maintenance and repair, and billing" for network elements and resale services. Order ¶ 523. A fully-functioning OSS from the point of view of CLECs: (i) allows the customer to order service from the CLEC (the pre-order); (ii) enables the ILEC to promptly accept the CLEC's order for processing (ordering); (iii) provides the customer with what the customer ordered on time (provisioning); (iv) transmits to the customer a timely and accurate bill (billing); and (v) monitors that the service is satisfactory and gets fixed when broken (maintenance and repair). Each of these areas was made expressly subject to the FCC's January 1, 1997 deadline. See Order ¶¶ 516, 523-24; 47 C.F.R. § 51.319.

The availability, accuracy and timeliness of the information used and maintained by OSSs are critical to a carrier's efforts to satisfy its customers. And because the timeliness and reliability of OSSs are so vital to providing and maintaining quality service to end-users, the performance of these systems is extremely important. OSSs that are slow to respond or unreliable undermine a carrier's efforts to ensure that customers get the services they want when they request them. It is absolutely critical that the interface to the OSS be electronic, and that the OSS functions electronically without manual intervention. The bottom line is: A carrier cannot conduct its business effectively or efficiently without error-free, well-designed and well-developed electronic OSSs. Local competition cannot work until OSS systems are in place so that ILEC to CLEC conversions are as simple as a PIC change for long distance service. Until that happens, it will be almost impossible for significant local competition to develop. The access currently being provided by NYNEX to its OSS does not come close to meeting these fundamental objectives.

NYNEX currently offers CLECs three purported interfaces through which to access various functions in its OSS: (1) the WEB/GUI interface; (2) the EIF interface; and (3) the EDI interface. The WEB/GUI interface is currently being used by all but one of the reseller CLECs. RT at 377, 380. The WEB/GUI is not, however, a true electronic link to NYNEX' OSS, as was proven by the evidence submitted at the Technical Conference. See Wajsgras Aff. ¶ 11 ("The WEB/GUI is not a complete electronic interface . . ."); Spivy Aff. ¶ 48 (the WEB/GUI is "far from a true electronic link"); and Statement of Michael M. Hou on behalf of AT&T Communications of New York ("Hou Stmt.") p. 19 (the WEB/GUI does not meet the definition of electronic interface because it does not permit "the automated interoperation of NYT's OSS with the CLECs' OSS systems"). Indeed, NYNEX itself admitted, both in its affidavits and in its testimony at the Technical Conference, that the WEB/GUI does not permit, for example, orders to flow through electronically from the CLEC into NYNEX' OSS; instead, once the CLECs' orders are transmitted through the WEB/GUI, they must be off-loaded and entered manually by NYNEX personnel. See Affidavit of Stuart Miller on behalf of New York Telephone Company ("Miller Aff.") ¶ 15 ("At present, most service orders require manual intervention by a NYNEX New York wholesale representative."); RT at 386. Without such automatic order flow, the WEB/GUI functions like an e-Mail system, or as one reseller described it, like a fax. See Spivy Aff., Exh. 8 at ¶ 48; RT at 389.<sup>4</sup> NYNEX does not itself have to endure this same double entry process for the orders of its end-user customers.

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<sup>4</sup> Mr. Miller testified at the Technical Conference that NYNEX, just that week, had introduced automated flow-through for "basically eight order types" for resellers. However, Mr. Miller did not indicate which order types those were, whether they have yet been thoroughly tested; and it was pointed out that that still leaves at least 31 different order-types that continue to require manual intervention. See RT at 435.

The WEB/GUI has limited, in other significant ways, LCI's ability to access and efficiently manipulate important information in NYNEX' OSS. LCI cannot, for example, obtain electronic access through the WEB/GUI to customer service records ("CSRs") that are longer than 50 pages; for those CSRs that LCI can access electronically, LCI cannot save or store these records electronically into its own database, but is instead forced to print these records and review them individually, one page at a time, to obtain the desired information concerning the customer to whom LCI is attempting to market its service; LCI cannot have more than one of its personnel access a customer's records at any given point in time, which impairs LCI's quality control and prevents customer service personnel from timely responding to customer inquiries; and LCI cannot access information about the status of installation orders, which is significant because NYNEX has frequently missed due dates for provisioning service. See Wajsgras Aff., Exh. 1 at ¶¶ 12-15. NYNEX' retail operations do not face any of these limitations suffered by LCI, and consequently NYNEX can provide better service to its customers and potential customers than can LCI.

NYNEX has also not provided LCI and other CLECs with parity in terms of the time it takes LCI to obtain a response from the OSS. The response time to LCI's orders and queries typically exceeds one minute or more (Wajsgras Aff. ¶ 16); other CLECs testified at the Technical Conference to similar delays. RT at 397-98. In contrast, NYNEX conceded at the Technical Conference that the response time for its own retail personnel was between two and 10 seconds:

- Q. What is the average response time for a NYNEX resale, retail representative when placing a request for a customer service record for the pre-ordering system?
- A. (Miller) . . . . A specific transaction response we expect to see in terms of entering the data and entering and hitting the enter button and getting a response can be anywhere between 2 and 10 seconds for that entire process in place.

RT at 447. Indeed, NYNEX conceded at the Conference that the WEB/GUI interface was "not the most speedy in the business" and that the response times currently being endured by the CLECs "can be improved," and that NYNEX was putting in place "mechanisms to improve these response times", although he did not say what these "mechanisms" are, when these "mechanisms" would be in place, nor did he indicate the extent to which response times would be improved. RT at 454.

One of the most persistent problems that LCI has experienced with NYNEX' OSS has been missed due date commitments for the provisioning of service. On at least 32% of the resale orders initiated by LCI between February 1 and March 18 of 1997, the due dates that were given by NYNEX' OSS were not met. The delay in provisioning of orders ranged anywhere from one day to one week or more, with an average delay of 4.8 days. See Wajsglas Aff. ¶ 18. NYNEX' failure to meet these due date commitments on a substantial number of LCI's orders is particularly damaging to LCI's ability to compete effectively as a new entrant. LCI has received numerous complaints from its new customers; several of its customers have been billed by both LCI and NYNEX for the same period, because NYNEX' OSS did not notify LCI that the due date had been missed; and LCI is aware of at least two customers who chose to keep their service with NYNEX after LCI was unable to provide service on the promised date. *Id.* at ¶ 19. Other reseller representatives testified at the Technical Conference to similar problems. See, e.g., RT at 389-391 (testimony of Mr. Dailey of Residential Communications Network, Inc., discussing missed installation dates resulting in billing problems for its end-users); RT at 411-412 (testimony of Ms. Spivy for MCI indicating that in a recent trial, NYNEX missed committed due dates on 35 of 47 orders, which raises the concern of double billing of the customer).

LCI has also endured delays in its receipt of billing information from NYNEX' OSS. In order to bill its end-users, LCI must obtain the call record information from NYNEX on the calls made by the LCI end-user. This call record information is

captured electronically by NYNEX switches at the time the call passes through the switch. NYNEX could and should be providing this information to LCI within 24 to 36 hours after a call has been recorded at the switch. This has not occurred. On over 40% of the calls made by LCI's end-users, NYNEX does not transmit the call record data until three days or more after the call was made. This has resulted in billing delays by LCI which affects LCI's cash flow. It also has resulted in LCI billing calls out of the appropriate billing cycle, which creates confusion and uncertainty in the minds of LCI's customers. See Wajsglas Aff., Exh. 1 at ¶¶ 21-24 and Exh. B to Wajsglas Aff. (which is part of Exh. 2 to the Record of Proceedings at the Technical Conference.)

There were numerous other problems with NYNEX' OSS interfaces which NYNEX itself conceded at the Technical Conference. These included: (1) NYNEX cannot currently provide electronic notification of rejected orders (RT at 490); (2) the CLECs cannot change or correct their orders electronically until a service order has been assigned (RT at 492); (3) CLECs cannot place "migration as specified" orders, which substantially increases their time and cost in placing orders to NYNEX (RT at 436); and (4) CLECs cannot, through NYNEX' OSS, determine a customer's billing telephone number from the customer's working telephone number, whereas NYNEX' own retail service personnel can obtain such information. RT at 448-49.

There are also substantial, admitted deficiencies with respect to NYNEX' EIF and EDI interfaces. There is, for example, no EDI interface for pre-ordering functions, and the EDI interface is not available for orders for unbundled network elements. Miller Aff. ¶¶ 9-14. Additionally, certain resale services are unavailable through NYNEX' EDI interface, including "ISDN Basic Rate Interface, ISDN Primary Rate Interface, private lines, intraLATA frame relay, centrex services and PBX/DID trunks." Spivy Aff., Exh. 8 at ¶ 58. Moreover, many of the deficiencies in the WEB/GUI interface also exist in the EIF interface, which is proprietary to NYNEX. The only



reseller who has been using the EIF interface identified discriminatory response times; unilateral changes to specifications by NYNEX, rendering it unable to transmit orders or messages to NYNEX for days; and an inability to view service orders as processed by NYNEX to check for errors, with the result that "customers have received services they did not want, or did not receive services that they requested." Statement of Vern M. Kennedy on Behalf of Community Telephone ("Kennedy Stmt."), Exh. 20 at pp.4-27.<sup>5</sup>

Finally, it is significant to note that NYNEX has not done any substantial testing of the operational capabilities of its OSS interfaces. NYNEX has not, for example, undertaken any "stress testing" of these interfaces. RT at 442-43. Thus far, the problems that have been identified in NYNEX' interfaces have occurred at extremely low volumes of orders. NYNEX has not put forward any evidence as to how it expects these interfaces to perform when faced with the substantial order flows that will be necessary to support competition in the local service market. Indeed, based on the evidence to date, it is clear that the electronic access methods that NYNEX is currently providing to its OSS are not operationally ready to handle reasonable commercial volumes.

In sum, NYNEX is not providing just, reasonable and nondiscriminatory access to its OSS as required by the Act and by the FCC in its First Report and Order.

#### **xiv. Resale**

LCI's only business in New York at this time is as a reseller. LCI began its resale operations in New York in November of 1996. Currently, LCI's resale business

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<sup>5</sup> Additional problems and shortcomings with both the EDI and EIF interfaces are detailed in the affidavits submitted by MCI (Spivy) and AT&T (Hou), who have undertaken a detailed analysis of those interfaces and have been attempting to work with NYNEX to run tests on those interfaces.

is geographically in LATA 132, exchanges 212 and 718, and is targeted to small businesses with 2 to 20 lines. LCI has plans to begin reselling residential service during 1997. Currently, LCI has over 400 resale business customers in New York. Wajsgas Aff. ¶ 7-8.

NYNEX is not currently providing resale services to LCI on terms and conditions that are just, reasonable and nondiscriminatory for the reasons more fully set forth above in the section concerning NYNEX' OSS.

**B. Are unbundled network elements being provided in a manner that allows requesting carriers to combine the elements in order to provide telecommunications service?**

NYNEX has not offered any evidence to establish that it will be able to provide CLECs with unbundled network elements in combination. NYNEX' SGAT provides only a two-page, very general discussion on combining unbundled network elements. NYNEX "assumes that it is technically feasible to combine unbundled network elements in the same manner that [NYNEX] configures network elements in its existing services." SGAT § 5.10.2 at p. 5-111. NYNEX has apparently not done any testing to determine whether it can, in fact, provision orders for unbundled network elements in combination. Moreover, NYNEX has not established any procedures for ordering the most basic combinations of unbundled network elements; instead it has specified that all combinations must be ordered through its cumbersome and time-consuming Bona Fide Request process.

Again, this is another situation where NYNEX has made a "paper offer", without any evidence whatsoever to prove that it can comply with its offer in such a way that CLECs can compete against NYNEX through a network platform comprised of combined, unbundled network elements obtained from NYNEX.

### **III. LEGAL ISSUES REGARDING INTERPRETATION AND APPLICATION OF SECTION 271**

#### **A. Section 271(c) Requirements**

- i. New York Telephone's Reliance on the Statement of Generally Available Terms (SGAT) to Meet the Section 271 Requirements Inconsistent with the Act?**
- ii. New York Telephone's Proposal to "Mix and Match" Items From Interconnection Agreements and the SGAT Consistent with the Act?**

The language of section 271 does not permit NYNEX to "mix and match" checklist items from its interconnection agreements (the so-called "Track A" application) with items from its SGAT (the so-called "Track B" application) in order to establish its compliance with section 271(c). Section 271(c)(1) specifically provides that a Bell operating company can satisfy the requirements of section 271(c) if it meets the requirements of [Track A] or [Track B]." (Emphasis supplied.) The use of the disjunctive "or" means that Track A and Track B applications are to be treated as separate and distinct alternatives, and cannot be combined. As the Second Circuit Court of Appeals held in *U.S. Customs Service Bureau v. Federal Labor Relations Authority*, 739 F.2d 829, 832 (2d Cir. 1984):

The word 'or' in the statute is not a fertile word which is subject to various constructions. [citation omitted] When "or" is inserted between two clauses the clauses are to be treated disjunctively rather than conjunctively.

*Accord Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979) ("Canons of construction ordinarily suggest that terms connected by the disjunctive be given separate meanings, unless the context dictates otherwise"); *Azure v. Morton*, 514 F.2d 897, 900 (9th Cir. 1975) ("[T]he use of the disjunctive in a statute indicates alternatives and requires that they be treated separately.")

NYNEX is asking this Commission to ignore the plain meaning of the words of the statute, and interpret "or" as if it were "and." Despite NYNEX' arguments to the contrary, there is nothing in the legislative history of section 271 to suggest that

Congress intended "or" to mean "and" in this context. To begin with, the "legislative history" cited by NYNEX in its brief was not the conference report, which, as NYNEX acknowledged in its brief, is "entitled to great weight in determining Congressional intent." Brief in Support of Application by New York Telephone Company Pursuant to Section 271 at p. 18 n. 21, citing *Cohn v. United States*, 872 F.2d 533, 534 (2d Cir.), *cert. denied*, 493 U.S. 848 (1989). Instead, NYNEX quoted a statement by one Congressional member as to his interpretation of the conference agreement which led to section 271(c). The conference report itself indicates that Congress intended Track A and Track B to be separate alternatives, and that the Track B alternative would be available to a Bell operating company only in limited circumstances:

New section 271(c) sets out the requirements for a BOC's provision of interLATA services originating in an in-region state (as defined in new section 271(i)). In addition to complying with the specific interconnection requirements under new section 271(c)(2), a BOC must satisfy the "in-region" test by virtue of the presence of a facilities-based competitor or competitors under new section 271(c)(1)(A) [Track A], or by the failure of a facilities-based competitor to request access or interconnection (under new section 251) as required under new section 271(c)(1)(B) [Track B].

\* \* \*

New section 271(c)(1)(B) also is adopted from the House amendment, and it is intended to ensure that a BOC is not effectively prevented from seeking entry into the interLATA services market simply because no facilities-based competitor that meets the criteria set out in new section 271(c)(1)(A) has sought to enter the market.

H.R. Rep. No. 104-458 at 147-148 (emphasis supplied). And even the statement from the Congressional member cited by NYNEX is consistent with this interpretation:

[I]n order for a Bell operating company to receive in-region interLATA relief, either the company must have entered into an interconnection agreement contemplated under § 271(c)(1)(A) with a facilities-based carrier or, if there has been no request for such an agreement, must have provided the statement of interconnection terms contemplated under § 271(c)(1)(B) (approved by a state under § 252(f)).

NYNEX Brief at p. 19, quoting 142 Cong. Rec. E 262-01 (February 1, 1996) (emphasis added).

For NYNEX to make any use of its SGAT in terms of compliance with section 271(c), it must first show that no other telecommunications carrier has requested access and interconnection or, if there has been such a request, that the carrier has failed to negotiate in good faith an interconnection agreement or has otherwise violated the terms of that agreement by failing to comply with the implementation schedule contained in the interconnection agreement. See § 271(c)(1)(B). NYNEX has not made, and cannot make, any such showing. Therefore, it cannot rely in any respect on its SGAT for compliance with section 271(c).

#### IV. CONCLUSION

For the reasons set forth above, and in the initial briefs to be filed by the other parties to this proceeding, LCI respectfully requests this Commission to issue an order (1) under section 271(d)(2)(B) advising the FCC that NYNEX is not in compliance with section 271(c), and (2) under section 252(f)(2) disapproving of NYNEX's SGAT.

DATED: April 17, 1996

Respectfully submitted,

LCI INTERNATIONAL TELECOM CORP.

Anne K. Bingaman

Douglas W. Kinkoph

MORGENSTEIN & JUBELIRER LLP

Rocky N. Unruh

Eliot S. Jubelirer

By: 

Rocky N. Unruh



5099.05/c

Anne K. Bingham  
Senior Vice President  
President, Local  
Telecommunications Division

March 24, 1997

**VIA FAX**

Jack Goldberg  
Vice President, Wholesale Services  
NYNEX  
1095 Avenue of the Americas, #4043  
New York, NY 10035

Dear Jack,

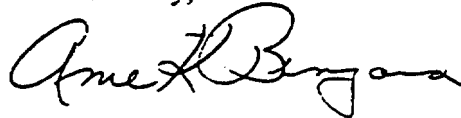
Thank you for meeting with LCI today concerning LCI's desire to undertake an operational "alpha" test of entering the local market using network element combinations obtained from NYNEX. Our understanding is that NYNEX and LCI will work along several parallel tracks so that actual experience could be gained as soon as possible. The next steps in this process are:

1. NYNEX and LCI will meet to develop an agreement under which LCI's alpha test can proceed. We agreed that NYNEX's recently filed Statement of Generally Available Terms would serve as the basis for such agreement, recognizing that such an approach would not limit, in any way, LCI's ability to challenge any portion of that Statement.
2. NYNEX will provide LCI a listing of all information necessary to prepare for a Network Design Request (NDR) meeting by close of business, March 25, 1997. LCI intends to primarily use standard routing algorithms; however, to more fully understand NYNEX's systems and operational procedures, LCI anticipates that it will also request some customized-routing capability. Our expectation is that the NDR meeting will occur on Thursday, March 27th.
3. NYNEX will provide LCI with a schedule of its training program concerning the ordering and provision of network elements, including combinations. Our understanding is that this training will be completed in time for our staff to use the basic platform within 30 days.

4. NYNEX and LCI will schedule a meeting shortly to discuss the format and procedures relating to the processing of AMA recordings necessary for LCI to bill its end-users and to bill other carriers originating access charges.
5. NYNEX will present LCI a proposal relating to the disbursement of carrier access revenues that NYNEX will collect on traffic terminating to LCI's end-users. It is our understanding that NYNEX does not dispute that LCI is entitled to such revenues as the access provider to its customers, but that NYNEX does not currently have an ability to separately identify such traffic. Although LCI and NYNEX have committed to negotiate this issue (and LCI would like to discuss further the related issue of local call terminations to LCI's end-users), no agreement has yet been reached.

If any of the above does not accurately reflect the understandings we reached at the meeting, please let me know. Thank you again for coming to meet with us here in Virginia. We look forward to working with Nynex on the development and provisioning of an LCI network platform.

Sincerely,



Anne K. Bingaman

AKB:slg 

APR 08 '97 14:39 FR LCI

7038484404 TO 814158965592

P.02/05

APR 08 '97 11:03 FR KELLEY DRYE&WARREN

TO 5-037344001-7037 P.02/05

NYNEX

222 Bloomingdale Road, White Plains, NY 10605

March 28, 1997

Brad Mutschelknaus  
Kelly, Duke, & Warren  
1200 Nineteenth St. N.W.  
Washington, D.C. 20036

**NYNEX**

Dear Brad.

Below is information promised from the Monday March 24th meeting in New York. I was asked to provide this information to LCI by Amy Stern, since I was not at Monday's meeting I was not sure who at LCI should receive this. Please forward this to the appropriate contacts at LCI. if you have any questions please call me on 914 644-4815.

NYNEX Proposal For Disbursement of Carrier Access Revenues Collected By NYNEX for Calls Terminating to LCI End Users Served on NYNEX<sup>®</sup> Unbundled Switching

3/27/97 Proposal for discussion

1. Determine Terminating Minutes of use:

-Each monthly, measure originating minutes of use from LCI end users being served by NYNEX UNE switching.

-Adjust by NYNEX LATA Access Terminating: Originating ration (.859:1 for initial period in NY Metro LATA)

2. To determine settlement rate per MOU:

-Take average terminating access rate per minute for state and federal access (by LATA).

Initial period in NY Metro LATA is \$.028679 per MOU.

-Subtract average UNE rate per minute for transport and switching \$.0127 per MOU (SGAT as filed)

3. Multiply terminating minutes times settlement rate.

4. For example, if in a given month we measure 1000 originating switched access minutes of use from LCI's customers served by NYNEX UNE elements, NYNEX would pay LCI  $.859 \times 1000 (\$.028679 - \$.0127) = \$13.73$

This proposal will be in effect until there is a significant regulatory change that impacts this settlement, or until NYNEX develops the capability to provide LCI with actual terminating access records, at which time NYNEX will charge LCI UNE local switching and transport charges, and turn over the access records to LCI, (at a charge per record) for billing the IXC.

Sincerely

  
Joseph Esposito

Account Manager, LCI Account



APR 08 '97 14:39 FR LCI

7038484404 TO 814158965592

P.03/05

APR 08 '97 11:04 FR KELLEY DRYEWARREN

TO 5-037344001-7037 P.03/05

To: Mr. Brad Mutschelknaus

From: Amy Stern  
NYNEX  
914-644-4977

Re: Clarifications on Settlement  
Proposal, p.2

**NYNEX Proposal For Disbursement of Carrier Access Revenues Collected By NYNEX  
for Calls Terminating to LCI End Users Served on NYNEX Unbundled Switching**

**Clarifications to 3/27/97 Proposal for discussion**

**Note: The original version of this document, sent to you on 3/28/97, needed some clarifications, which are included here in bold underline. The major change here is that until the FCC rules on the disposition of access charges, NYNEX will keep the carrier common line and 75% of the RIC charges associated with interexchange carrier access charges.**

**1. Determine Terminating Minutes of use:**

- Each month, measure originating interexchange access minutes of use from LCI end users being served by NYNEX UNE switching.
- Adjust by NYNEX LATA Access Terminating:Originating ratio ( .859:1 for initial period in NY Metro LATA)

**2. To determine settlement rate per MOU:**

- Take average terminating access rate per minute for state and federal access (by LATA). Initial period in NY Metro LATA is \$.028679 per MOU.
- Subtract average UNE rate (plus, until changed by FCC order, Carrier common line and 75% of the RIC) per minute for transport and switching \$.0127 per MOU (SGAT as filed) plus est. \$.01 per MOU

**3. Multiply terminating minutes times settlement rate.**

**4. For example, if in a given month we measured 1000 originating switched access minutes of use from LCI's customers served by NYNEX UNE switching and transport elements, NYNEX would pay LCI  $.859 \times 1000 \times ($.028679 - $.0227) = \$5.14$ .**

This proposal will be in effect until there is a significant regulatory change that impacts this settlement, or until NYNEX develops the capability to provide LCI with actual terminating access records, at which time NYNEX will charge LCI UNE local switching and transport charges, and turn over the access records to LCI, (at a charge per record) for billing the IXC.

## **PROOF OF SERVICE**

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is One Market, Spear Street Tower, 32nd Floor, San Francisco, California.

On the date stated below, at San Francisco, California, I caused to be served

**INITIAL BRIEF OF LCI INTERNATIONAL TELECOM CORP. IN OPPOSITION TO NEW YORK TELEPHONE COMPANY'S (1) PETITION FOR APPROVAL OF ITS STATEMENT OF GENERALLY AVAILABLE TERMS AND CONDITIONS AND (2) DRAFT PETITION FOR InterLATA ENTRY**

on the parties in this action, by placing for deposit a true copy thereof in a sealed envelope, and each envelope addressed as follows:

**PLEASE SEE ATTACHED SERVICE LIST**

☒ (By Facsimile) I transmitted the document via facsimile machine.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 18th day of April, 1997, at San Francisco, California.

  
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January 29, 1997

Joe SantaMaria  
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Joe,

I am including several of the major provisioning points that are keeping LCI from turning up and servicing customers.

Please contact me if you have any questions or resolutions regarding these issues.

Sincerely,

Kirsten Johnson  
Local Project Manager

cc Anne Bingaman  
Mike Wajsgras

"A-6"